



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2381/P1e

MDK:wlj:AK

1

D-NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

QM
has
been
run

gen cat

1 AN ACT *to repeal* 16.009 (1) (h), 250.01 (6) and 948.70 (1) (a); *to renumber*
2 146.31 (1), 185.983 (1) and 804.10 (1); *to renumber and amend* 253.01, 446.02
3 (7) (b) and 975.001; *to consolidate, renumber and amend* 948.70 (1) (intro.)
4 and (b); *to amend* 15.165 (5) (a) 7., 15.405 (7m), 15.407 (1m), 15.915 (2) (b),
5 20.927 (1m), 29.193 (3) (a), 30.67 (6) (b), 46.21 (2) (m), 46.245, 46.297 (2) (a),
6 46.298, 46.87 (5) (a) 1., 49.26 (1) (g) 11., 49.43 (9), 50.09 (1) (a) (intro.), 50.36 (3g)
7 (c), 50.90 (3), 55.043 (1) (b) (intro.), 59.53 (13) (a), 66.0601 (1) (b), 100.43 (3) (c),
8 106.50 (2r) (bm) 2., 115.53 (4) (a), 118.29 (1) (e), 146.0255 (2), 146.17, 146.89 (1),
9 155.05 (2), 157.05, 157.06 (1) (h), 165.765 (2) (a), 252.14 (1) (ar) 4., 252.15 (1)
10 (am), 252.23 (1) (a), 302.10, 302.113 (9g) (c), 302.37 (2), 302.383 (1) (b), 302.40,
11 343.63 (4), 347.485 (2) (b), 350.155 (2), 441.001 (3) (a), 441.001 (4) (b), 444.10,
12 445.14, 446.01 (2) (b), 446.02 (1) (b), 446.02 (2) (b), 446.02 (4), 446.02 (9) (a),
13 447.03 (3) (h), 449.01 (2), 449.02 (2), 450.01 (22), 454.02 (1), 459.035, 632.853,
14 765.03 (1), 804.10 (3) (a), 880.33 (1), 880.33 (4m) (b) 1., 891.09 (2), 891.40 (1),
15 891.40 (2), 938.48 (6), 939.615 (6) (e), 967.02 (2), 968.255 (3), 971.14 (2) (g),

unprofessional conduct by chiropractors

971.14 (5) (am) and 990.01 (28); and **to create** 46.27 (1) (bg), 48.02 (14k), 50.01 (4p), 50.49 (1) (d), 51.01 (13m), 69.01 (17m), 77.51 (10m), 95.21 (1) (dm), 101.01 (10m), 146.31 (1g), 146.55 (1) (fm), 155.01 (9m), 185.983 (1g), 252.01 (5), 253.01 (2), 255.01 (2m), 301.45 (1d) (q), 343.045, 346.01 (3), 441.001 (2q), 446.01 (1m), 446.02 (6m), 446.02 (7) (b) 2., 446.02 (7s), 446.025, 446.03 (8), 449.01 (5), 450.01 (15m), 454.01 (14m), 632.68 (1) (am), 632.835 (1) (cm), 632.89 (1) (eg), 767.001 (5m), 804.10 (1g), 938.02 (14g), 940.001, 941.315 (1) (c), 948.01 (3o), 975.001 (2), 979.001, 990.01 (25v) and 990.01 (40m) of the statutes; **relating to:** the definition of the practice of chiropractic; chiropractic evaluations, treatments, and referrals to physicians; delegations by chiropractors to physician assistants and other employees; continuing education for chiropractors; nutritional guidance provided by chiropractors to patients; ~~and~~ statutory references to physicians and chiropractors.

and granting rule-making authority

3) unprofessional conduct by chiropractors

Analysis by the Legislative Reference Bureau

This bill makes changes to the regulation of chiropractors regarding all of the following: 1) the definition of the "practice of chiropractic"; 2) patient evaluations, treatments, and referrals; 3) delegations by chiropractors; 4) continuing education requirements; 5) nutritional guidance provided by chiropractors; and 6) statutory references to physicians and chiropractors. These changes are described below.

Definition of the "practice of chiropractic"

Under current law, the "practice of chiropractic" is defined, in part, as the employment or application of chiropractic adjustments and the principles or techniques of chiropractic science in the diagnosis, treatment, or prevention of conditions of human health or disease.

Under this bill, the "practice of chiropractic" has the same definition, except that the chiropractic adjustments and principles or techniques of chiropractic science must be those that are taught at a college or university approved by the Council on Chiropractic Education or any successor organization.

Patient evaluations, treatments, and referrals

This bill requires a chiropractor to evaluate a patient to determine whether the patient has a condition that is treatable by chiropractic means. The evaluation must be based on an examination that is appropriate to the patient. Also, a chiropractor

INSEAT 3A ✓

must utilize chiropractic science, as defined by rule by the Chiropractic Examining Board, and the principles of education and training of the chiropractic profession.

Under the bill, a chiropractor must discontinue treatment if, at any time, the chiropractor determines, or reasonably should have determined, that the patient's condition will not respond to further chiropractic treatment. Also, if a chiropractor makes such a determination, the chiropractor must inform the patient and refer the patient to a physician. If the referral is in writing, the chiropractor must provide a copy to the patient and maintain a copy with the patient's records. If the referral is made orally, the chiropractor must notify the patient about the referral and make a written record of the referral, which must be maintained with the patient's records.

Finally, the bill creates one exception to the requirement to discontinue treatment under the circumstances described above. The exception is that the bill allows a chiropractor to provide supportive care to a patient being treated by another health care professional.

Delegations by chiropractors

Under current law, a chiropractor licensed by the Chiropractic Examining Board is allowed to delegate services that are adjunctive to the practice of chiropractic to individuals who are not licensed by the Chiropractic Examining Board, but only if the services are performed under the direct, on-premises supervision of the chiropractor. In addition, current law prohibits a chiropractor from delegating to individuals not licensed by the Chiropractic Examining Board the making of a diagnosis, the performance of a chiropractic adjustment, the analysis of a diagnostic test or clinical information, or any practice or service that the Chiropractic Examining Board specifies in rules.

This bill creates an exception to the prohibition described above. Under the bill, a chiropractor may delegate to a physician assistant licensed by the Medical Examining Board the making of a diagnosis, the analysis of a diagnostic test or clinical information, or any practice or service that the Chiropractic Examining Board specifies in rules. However, a chiropractor may not delegate the performance of a chiropractic adjustment to a physician assistant. Also, a delegation may not exceed the chiropractor's scope of practice or the education, training, or experience of the physician assistant. A delegation to a physician assistant allowed under the bill does not have to be under the direct, on-premises supervision of a chiropractor.

The bill also requires a chiropractor who applies to renew his or her license to identify each employee to whom clinical work is delegated, except that the following do not have to be identified: nurses, physician assistants, physical therapists, and athletic trainers. In addition, if the Chiropractic Examining Board has promulgated rules that require an employee who is required to be identified to complete a training program or course of instruction to perform the delegated work, the chiropractor must also provide in his or her application for renewal the name, date, and sponsoring organization for the training program or course of instruction that the employee completed.

Finally, the bill changes the definitions of "practical nursing" and "professional nursing" to include actions taken under the supervision or direction of a chiropractor,

in addition to actions taken under the supervision or direction of other health care professionals that are specified under current law.

Continuing education

Under current law, a chiropractor licensed by the Chiropractic Examining Board must complete any continuing education that the board requires in order to renew his or her license, which must be renewed every two years. This bill creates additional requirements regarding continuing education.

Under the bill, the Chiropractic Examining Board must establish the minimum number of hours of continuing education courses that must be completed during the two-year licensure period. As under current law, a chiropractor does not have to begin complying with continuing education requirements under the bill until the first two-year licensure period beginning after he or she initially receives his or her license.

Also under the bill, only courses that are approved by the Chiropractic Examining Board may be used to satisfy the minimum hours required. The Chiropractic Examining Board may only approve a course if the organization that sponsors the course (sponsoring organization) satisfies certain requirements. The sponsoring organization must be the Wisconsin, American, or International Chiropractic Association, or an approved chiropractic, medical, or osteopathic college or university. Also, the sponsoring organization must carry out specified duties, including selecting the course instructor, preparing course materials, evaluating the course, maintaining transcripts, performing financial administration, proctoring attendance, providing attendance vouchers, and supplying a list of attendees to the Chiropractic Examining Board. The sponsoring organization is also allowed to delegate these duties to another organization. The Chiropractic Examining Board must withdraw or withhold approval from a sponsoring organization for a two-year period if the sponsoring organization fails to carry out any of the duties, or if an organization to which a duty is delegated fails to carry out any of the duties.

The bill requires the Chiropractic Examining Board periodically to publish an updated list of approved courses. A chiropractor who applies to renew his or her license must identify the courses used to satisfy the minimum hour requirement on a form provided by the Department of Regulation and Licensing. The bill requires the Department of Regulation and Licensing to audit at least 25% of the renewal applications received during each two-year licensure period to determine whether an applicant has attended the courses that he or she identifies on the form.

Finally, the bill allows the Chiropractic Examining Board to take disciplinary action against a licensed chiropractor who violates any state law or rule regulating chiropractors, including the continuing education requirements.

Nutritional guidance

This bill requires certain chiropractors licensed by the Chiropractic Examining Board to complete a postgraduate course of study in nutrition before they may provide counsel, guidance, direction, advice, or recommendations to patients regarding the health benefits of vitamins, herbs, or nutritional supplements. However, the requirement applies only to chiropractors who were granted licenses on or before January 1, 2003. In addition, the requirement does not apply to

chiropractors who are also certified as dietitians by the Dietitians Affiliated Credentialing Board. The required course of study must consist of 48 hours and must be approved by the Chiropractic Examining Board.

Statutory references to physicians and chiropractors

Under current law, if the term “physician” is used in the statutes, it means a physician licensed by the Medical Examining Board, except if that meaning is inconsistent with the legislature’s manifest intent. Also, under current law, if “chiropractor” is used in the statutes, it means a chiropractor licensed by the Chiropractic Examining Board, with the same exception regarding legislative intent.

Under this bill, if the term “physician” is used in the statutes, it means either a physician licensed by the Medical Examining Board or a chiropractor licensed by the Chiropractic Examining Board, with the same exception under current law regarding legislative intent. As a result, the following provisions that refer to a “physician” under current law are changed under the bill to refer to either a physician licensed by the Medical Examining Board or a chiropractor licensed by the Chiropractic Examining Board:

1. Certifications, reports, or other requirements regarding handicap, disability, illness, physical fitness, or other physical condition that are related to class B hunting permits, testimony by telephone at tax dispute hearings conducted by a board of review, releases of land from farmland preservation agreements, polygraph testing by employers, verification of illness of striking municipal workers, duty of hospitals to provide emergency treatment, notification of the Department of Transportation about a patient’s ability to drive, and participation in a property tax loan program administered by the Wisconsin Housing and Economic Development Authority, and driver’s instructor licenses.

2. Certifications, reports, or examinations regarding handicap, disability, or other physical condition required participation in a program for state agencies to make procurements from work centers for the severely physically handicapped, disability annuities administered by the Employee Trust Funds Board, eligibility of veterans for public employment, and exemptions of unemployed persons from certain supervision fees otherwise required by the Department of Corrections.

3. Appointments to the Private Employer Health Coverage Board in the Department of Employee Trust Funds, appointments of town physicians by certain towns, appointments of chief medical officers by the state health officer, appointments to local boards of health, and appointments of local health officers by towns and villages.

4. Privacy requirements for medical communications regarding residents of nursing homes and community-based residential facilities and requirements regarding the release of employee medical records by employers.

5. Reports required for accidents involving all-terrain vehicles and snowmobiles and investigations of snowmobile accidents by the Department of Natural Resources.

6. Requirements for drawing blood for testing persons arrested for intoxicated operation of motor vehicles, all-terrain vehicles, snowmobiles, or boats.

7. Physical examinations required for civil service employees of first class cities, for participation in the Wisconsin service and conservation corps programs, and for certain school employees.

8. Access to physical examinations and medical evidence in personal injury actions.

9. Standards for hospice care in rules promulgated by the Department of Health and Family Services.

10. Requirements for participating in the Volunteer Health Care Provider program administered by the Department of Health and Family Services.

11. Eligibility of nonprofit hospitals for property tax exemption regarding certain health and fitness centers.

12. Reports of sexual assault or incest relating to eligibility for benefits under the Wisconsin Works and Aid to Families with Dependent Children programs.

13. Duty to refer children with disabilities to local educational agencies.

14. Preexisting condition requirements in medicare supplement, medicare replacement, or long-term care insurance policies.

Finally, the bill specifies that other references to a “physician” under current law mean a physician licensed by the Medical Examining Board. As a result, the bill does not change the meaning of those references under current law.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.165 (5) (a) 7. of the statutes is amended to read:

2 15.165 (5) (a) 7. One member who is a physician, ~~as defined in s. 448.01 (5).~~

3 **SECTION 2.** 15.405 (7m) of the statutes is amended to read:

4 15.405 (7m) NURSING HOME ADMINISTRATOR EXAMINING BOARD. There is created
5 a nursing home administrator examining board in the department of regulation and
6 licensing consisting of 9 members appointed for staggered 4-year terms and the
7 secretary of health and family services or a designee, who shall serve as a nonvoting
8 member. Five members shall be nursing home administrators licensed in this state.
9 One member shall be a physician as defined in s. 448.01 (5). One member shall be
10 a nurse licensed under ch. 441. Two members shall be public members. No more than
11 2 members may be officials or full-time employees of this state.

1 **SECTION 3.** 15.407 (1m) of the statutes is amended to read:

2 15.407 (1m) RESPIRATORY CARE PRACTITIONERS EXAMINING COUNCIL. There is
3 created a respiratory care practitioners examining council in the department of
4 regulation and licensing and serving the medical examining board in an advisory
5 capacity in the formulating of rules to be promulgated by the medical examining
6 board for the regulation of respiratory care practitioners. The respiratory care
7 practitioners examining council shall consist of 3 certified respiratory care
8 practitioners, each of whom shall have engaged in the practice of respiratory care for
9 at least 3 years preceding appointment, one physician, as defined in s. 448.01 (5), and
10 one public member. The respiratory care practitioner and physician members shall
11 be appointed by the medical examining board. The members of the examining
12 council shall serve 3-year terms. Section 15.08 (1) to (4) (a) and (6) to (10) shall apply
13 to the respiratory care practitioners examining council.

14 **SECTION 4.** 15.915 (2) (b) of the statutes is amended to read:

15 15.915 (2) (b) A representative of local health departments who is not an
16 employee of the department of health and family services, one physician, as defined
17 in s. 448.01 (5), representing clinical laboratories, one member representing private
18 environmental testing laboratories, one member representing occupational health
19 laboratories and 3 additional members, one of whom shall be a medical examiner or
20 coroner, appointed for 3-year terms. No member appointed under this paragraph
21 may be an employee of the laboratory of hygiene.

22 **SECTION 5.** 16.009 (1) (h) of the statutes is repealed.

23 **SECTION 6.** 20.927 (1m) of the statutes is amended to read:

24 20.927 (1m) Except as provided under subs. (2) and (3), no funds of this state
25 or of any county, city, village, town or family care district under s. 46.2895 or of any

1 subdivision or agency of this state or of any county, city, village or town and no federal
2 funds passing through the state treasury shall be authorized for or paid to a
3 physician, as defined in s. 448.01 (5), or surgeon or a hospital, clinic or other medical
4 facility for the performance of an abortion.

5 **SECTION 7.** 29.193 (3) (a) of the statutes is amended to read:

6 29.193 (3) (a) Produces a certificate from a ~~licensed~~ physician, as defined in s.
7 448.01 (5), or optometrist stating that his or her sight is impaired to the degree that
8 he or she cannot read ordinary newspaper print with or without corrective glasses.

9 **SECTION 8.** 30.67 (6) (b) of the statutes is amended to read:

10 30.67 (6) (b) In cases of death involving a boat in which the person died within
11 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be
12 withdrawn from the body of the decedent within 12 hours after his or her death, by
13 the coroner or medical examiner or by a physician, as defined in s. 448.01 (5), so
14 designated by the coroner or medical examiner or by a qualified person at the
15 direction of the physician. All morticians shall obtain a release from the coroner or
16 medical examiner prior to proceeding with embalming any body coming under the
17 scope of this section. The blood so drawn shall be forwarded to a laboratory approved
18 by the state health officer for analysis of the alcoholic content of the blood specimen.
19 The coroner or medical examiner causing the blood to be withdrawn shall be notified
20 of the results of each analysis made and shall forward the results of each analysis
21 to the state health officer. The state health officer shall keep a record of all
22 examinations to be used for statistical purposes only. The cumulative results of the
23 examinations, without identifying the individuals involved, shall be disseminated
24 and made public by the state health officer. The department shall reimburse
25 coroners and medical examiners for the costs incurred in submitting reports and

1 taking blood specimens and laboratories for the costs incurred in analyzing blood
2 specimens under this section.

3 **SECTION 9.** 46.21 (2) (m) of the statutes is amended to read:

4 46.21 (2) (m) May establish and maintain in connection with such county
5 hospital, an emergency unit or department for the treatment, subject to such rules
6 as may be prescribed by the county board of supervisors, of persons in the county who
7 may meet with accidents or be suddenly afflicted with illness not contagious;
8 provided that medical care and treatment shall only be furnished in such unit or
9 department until such time as the patient may be safely removed to another hospital
10 or to his or her place of abode, or regularly admitted to the county hospital. The
11 county board of supervisors may also contract with any private hospital or nonprofit
12 hospital within the county for the use of its facilities and for medical service to be
13 furnished by a licensed physician, or physicians, as defined in s. 448.01 (5), to
14 patients who require emergency medical treatment or first aid as a result of any
15 accident, injury or sudden affliction of illness occurring within the county, except
16 that reasonable compensation may only be authorized until the patient is regularly
17 admitted as an inpatient or safely removed to another hospital or to his place of
18 abode. In this paragraph, "hospital" includes, without limitation due to
19 enumeration, public health centers, medical facilities and general, tuberculosis,
20 mental, chronic disease and other types of hospitals and related facilities, such as
21 laboratories, outpatient departments, nurses' home and training facilities, and
22 central service facilities operated in connection with hospitals. In this paragraph,
23 "hospital" does not include any hospital furnishing primarily domiciliary care. In
24 this paragraph "nonprofit hospital" means any hospital owned and operated by a

1 corporation or association, no part of the net earnings of which inures, or may
2 lawfully inure, to the benefit of any private shareholder or individual.

3 **SECTION 10.** 46.245 of the statutes is amended to read:

4 **46.245 Information for certain pregnant women.** Upon request, a county
5 department under s. 46.215, 46.22 or 46.23 shall distribute the materials described
6 under s. 253.10 (3) (d), as prepared and distributed by the department. A physician,
7 as defined in s. 448.01 (5), who intends to perform or induce an abortion or another
8 qualified physician, as defined in s. 253.10 (2) (g), who reasonably believes that he
9 or she might have a patient for whom the information under s. 253.10 (3) (d) is
10 required to be given, shall request a reasonably adequate number of the materials
11 from the county department under this section or from the department under s.
12 253.10 (3) (d). An individual may request a reasonably adequate number of the
13 materials.

14 **SECTION 11.** 46.27 (1) (bg) of the statutes is created to read:

15 46.27 (1) (bg) "Physician" has the meaning given in s. 448.01 (5).

16 **SECTION 12.** 46.297 (2) (a) of the statutes is amended to read:

17 46.297 (2) (a) The person is certified as deaf or severely hearing impaired by
18 a physician, as defined in s. 448.01 (5), an audiologist licensed under subch. II of ch.
19 459, or the department.

20 **SECTION 13.** 46.298 of the statutes is amended to read:

21 **46.298 Vehicle sticker for the hearing impaired.** Upon the request of a
22 person who is certified as hearing impaired by the department, by a physician, as
23 defined in s. 448.01 (5), by a hearing instrument specialist licensed under subch. I
24 of ch. 459 or by an audiologist licensed under subch. II of ch. 459, the department
25 shall issue to the person a decal or sticker for display on a motor vehicle owned or

1 frequently operated by the person to apprise law enforcement officers of the fact that
2 the vehicle is owned or operated by a hearing-impaired person. No charge shall be
3 made for issuance of the decal or sticker. The department shall specify the design
4 of the decal or sticker. The department shall designate the location on the vehicle
5 at which the decal or sticker shall be affixed by its own adhesive.

6 **SECTION 14.** 46.87 (5) (a) 1. of the statutes is amended to read:

7 46.87 (5) (a) 1. At least one member of the household must be a person who has
8 been diagnosed by a physician, as defined in s. 448.01 (5), as having Alzheimer's
9 disease.

10 **SECTION 15.** 48.02 (14k) of the statutes is created to read:

11 48.02 (14k) "Physician" has the meaning given in s. 448.01 (5).

12 **SECTION 16.** 49.26 (1) (g) 11. of the statutes is amended to read:

13 49.26 (1) (g) 11. If the individual is the mother of a child, a physician, as defined
14 in s. 448.01 (5), has not determined that the individual should delay her return to
15 school after giving birth.

16 **SECTION 17.** 49.43 (9) of the statutes is amended to read:

17 49.43 (9) "Physician" ~~means a person licensed to practice medicine and surgery,~~
18 ~~and includes graduates of osteopathic colleges holding an unlimited license to~~
19 ~~practice medicine and surgery~~ has the meaning given in s. 448.01 (5).

20 **SECTION 18.** 50.01 (4p) of the statutes is created to read:

21 50.01 (4p) "Physician" has the meaning given in s. 448.01 (5).

22 **SECTION 19.** 50.09 (1) (a) (intro.) of the statutes is amended to read:

23 50.09 (1) (a) (intro.) Private and unrestricted communications with the
24 resident's family, physician, chiropractor, attorney and any other person, unless
25 medically contraindicated as documented by the resident's physician in the

1 resident's medical record, except that communications with public officials or with
2 the resident's attorney shall not be restricted in any event. The right to private and
3 unrestricted communications shall include, but is not limited to, the right to:

4 **SECTION 20.** 50.36 (3g) (c) of the statutes is amended to read:

5 50.36 (3g) (c) If a hospital grants a psychologist hospital staff privileges or
6 limited hospital staff privileges under par. (b), the psychologist or the hospital shall,
7 prior to or at the time of hospital admission of a patient, identify an appropriate
8 physician, as defined in s. 448.01 (5), with admitting privileges at the hospital who
9 shall be responsible for the medical evaluation and medical management of the
10 patient for the duration of his or her hospitalization.

11 **SECTION 21.** 50.49 (1) (d) of the statutes is created to read:

12 50.49 (1) (d) "Physician" has the meaning given in s. 448.01 (5).

13 **SECTION 22.** 50.90 (3) of the statutes is amended to read:

14 50.90 (3) "Palliative care" means management and support provided for the
15 reduction or abatement of pain, for other physical symptoms and for psychosocial or
16 spiritual needs of individuals with terminal illness and includes ~~physician~~ services
17 provided by a physician, skilled nursing care, medical social services, services of
18 volunteers, and bereavement services. "Palliative care" does not mean treatment
19 provided in order to cure a medical condition or disease or to artificially prolong life.

20 **SECTION 23.** 51.01 (13m) of the statutes is created to read:

21 51.01 (13m) "Physician" has the meaning given in s. 448.01 (5).

22 **SECTION 24.** 55.043 (1) (b) (intro.) of the statutes is amended to read:

23 55.043 (1) (b) (intro.) The county protective services agency may transport the
24 vulnerable adult for performance of a medical examination by a physician, as defined
25 in s. 448.01 (5), if any of the following applies:

1 **SECTION 25.** 59.53 (13) (a) of the statutes is amended to read:

2 59.53 (13) (a) No county, or agency or subdivision of the county, may authorize
3 funds for or pay to a physician, as defined in s. 448.01 (5), or surgeon or a hospital,
4 clinic or other medical facility for the performance of an abortion except those
5 permitted under and which are performed in accordance with s. 20.927.

6 **SECTION 26.** 66.0601 (1) (b) of the statutes is amended to read:

7 66.0601 (1) (b) *Payments for abortions restricted.* No city, village, town, family
8 care district under s. 46.2895 or agency or subdivision of a city, village or town may
9 authorize funds for or pay to a physician, as defined in s. 448.01 (5), or surgeon or a
10 hospital, clinic or other medical facility for the performance of an abortion except
11 those permitted under and which are performed in accordance with s. 20.927.

12 **SECTION 27.** 69.01 (17m) of the statutes is created to read:

13 69.01 (17m) “Physician” has the meaning given in s. 448.01 (5).

14 **SECTION 28.** 77.51 (10m) of the statutes is created to read:

15 77.51 (10m) “Physician” has the meaning given in s. 448.01 (5).

16 **SECTION 29.** 95.21 (1) (dm) of the statutes is created to read:

17 95.21 (1) (dm) “Physician” has the meaning given in s. 448.01 (5).

18 **SECTION 30.** 100.43 (3) (c) of the statutes is amended to read:

19 100.43 (3) (c) A household substance, subject to special packaging standards,
20 which is dispensed pursuant to a prescription of a physician, as defined in s. 448.01
21 (5), dentist, or other licensed medical practitioner may be sold in conventional or
22 noncomplying packages when directed in such prescription or requested by the
23 purchaser.

24 **SECTION 31.** 101.01 (10m) of the statutes is created to read:

25 101.01 (10m) “Physician” has the meaning given in s. 448.01 (5).

1 **SECTION 32.** 106.50 (2r) (bm) 2. of the statutes is amended to read:

2 106.50 (2r) (bm) 2. Subdivision 1. does not apply in the case of the rental of
3 owner-occupied housing if the owner or a member of his or her immediate family
4 occupying the housing possesses and, upon request, presents to the individual a
5 certificate signed by a physician, as defined in s. 448.01 (5), which states that the
6 owner or family member is allergic to the type of animal the individual possesses.

7 **SECTION 33.** 115.53 (4) (a) of the statutes is amended to read:

8 115.53 (4) (a) The application shall be accompanied by the report of a physician,
9 as defined in s. 448.01 (5), appointed by the director of the Wisconsin Educational
10 Services Program for the Deaf and Hard of Hearing or the director of the Wisconsin
11 Center for the Blind and Visually Impaired and shall be in the same form as reports
12 of other physicians for admission of patients to such hospital.

13 **SECTION 34.** 118.29 (1) (e) of the statutes is amended to read:

14 118.29 (1) (e) "Practitioner" means any physician, as defined in s. 448.01 (5),
15 dentist, optometrist, physician assistant, advanced practice nurse prescriber, or
16 podiatrist licensed in any state.

17 **SECTION 35.** 146.0255 (2) of the statutes is amended to read:

18 146.0255 (2) TESTING. Any hospital employee who provides health care, social
19 worker or intake worker under ch. 48 may refer an infant or an expectant mother of
20 an unborn child, as defined in s. 48.02 (19), to a physician, as defined in s. 448.01 (5),
21 for testing of the bodily fluids of the infant or expectant mother for controlled
22 substances or controlled substance analogs if the hospital employee who provides
23 health care, social worker or intake worker suspects that the infant or expectant
24 mother has controlled substances or controlled substance analogs in the bodily fluids
25 of the infant or expectant mother because of the use of controlled substances or

1 controlled substance analogs by the mother while she was pregnant with the infant
2 or by the expectant mother while she is pregnant with the unborn child. The
3 physician may test the infant or expectant mother to ascertain whether or not the
4 infant or expectant mother has controlled substances or controlled substance
5 analogs in the bodily fluids of the infant or expectant mother, if the physician
6 determines that there is a serious risk that there are controlled substances or
7 controlled substance analogs in the bodily fluids of the infant or expectant mother
8 because of the use of controlled substances or controlled substance analogs by the
9 mother while she was pregnant with the infant or by the expectant mother while she
10 is pregnant with the unborn child and that the health of the infant, the unborn child
11 or the child when born may be adversely affected by the controlled substances or
12 controlled substance analogs. If the results of the test indicate that the infant does
13 have controlled substances or controlled substance analogs in the infant's bodily
14 fluids, the physician shall make a report under s. 46.238. If the results of the test
15 indicate that the expectant mother does have controlled substances or controlled
16 substance analogs in the expectant mother's bodily fluids, the physician may make
17 a report under s. 46.238. Under this subsection, no physician may test an expectant
18 mother without first receiving her informed consent to the testing.

19 **SECTION 36.** 146.17 of the statutes is amended to read:

20 **146.17 Limitations.** Nothing in the statutes shall be construed to authorize
21 interference with the individual's right to select his or her own physician, as defined
22 in s. 448.01 (5), or mode of treatment, nor as a limitation upon the municipality to
23 enact measures in aid of health administration, consistent with statute and acts of
24 the department.

25 **SECTION 37.** 146.31 (1) of the statutes is renumbered 146.31 (1r).

1 **SECTION 38.** 146.31 (1g) of the statutes is created to read:

2 146.31 (1g) In this section, “physician” has the meaning given in s. 448.01 (5).

3 **SECTION 39.** 146.55 (1) (fm) of the statutes is created to read:

4 146.55 (1) (fm) “Physician” has the meaning given in s. 448.01 (5).

5 **SECTION 40.** 146.89 (1) of the statutes is amended to read:

6 146.89 (1) In this section, “volunteer health care provider” means an individual
7 who is ~~licensed as a physician under ch. 448,~~ or who is licensed as a dentist under
8 ch. 447, registered nurse, practical nurse or nurse-midwife under ch. 441,
9 optometrist under ch. 449 or physician assistant under ch. 448 or certified as a
10 dietitian under subch. V of ch. 448 and who receives no income from the practice of
11 that health care profession or who receives no income from the practice of that health
12 care profession when providing services at the nonprofit agency specified under sub.
13 (3).

14 **SECTION 41.** 155.01 (9m) of the statutes is created to read:

15 155.01 (9m) “Physician” has the meaning given in s. 448.01 (5).

16 **SECTION 42.** 155.05 (2) of the statutes is amended to read:

17 155.05 (2) Unless otherwise specified in the power of attorney for health care
18 instrument, an individual’s power of attorney for health care takes effect upon a
19 finding of incapacity by 2 physicians, ~~as defined in s. 448.01 (5),~~ or one physician and
20 one licensed psychologist, as defined in s. 455.01 (4), who personally examine the
21 principal and sign a statement specifying that the principal has incapacity. Mere old
22 age, eccentricity or physical disability, either singly or together, are insufficient to
23 make a finding of incapacity. Neither of the individuals who make a finding of
24 incapacity may be a relative of the principal or have knowledge that he or she is
25 entitled to or has a claim on any portion of the principal’s estate. A copy of the

1 statement, if made, shall be appended to the power of attorney for health care
2 instrument.

3 **SECTION 43.** 157.05 of the statutes is amended to read:

4 **157.05 Autopsy.** Consent for a licensed physician, as defined in s. 448.01 (5),
5 to conduct an autopsy on the body of a deceased person shall be deemed sufficient
6 when given by whichever one of the following assumes custody of the body for
7 purposes of burial: Father, mother, husband, wife, child, guardian, next of kin, or in
8 the absence of any of the foregoing, a friend, or a person charged by law with the
9 responsibility for burial. If 2 or more such persons assume custody of the body, the
10 consent of one of them shall be deemed sufficient.

11 **SECTION 44.** 157.06 (1) (h) of the statutes is amended to read:

12 157.06 (1) (h) "Physician" means has the meaning given in s. 448.01 (5), and
13 also includes an individual licensed or otherwise authorized to practice medicine and
14 surgery or osteopathy and surgery under the laws of any state.

15 **SECTION 45.** 165.765 (2) (a) of the statutes is amended to read:

16 165.765 (2) (a) Any physician, as defined in s. 448.01 (5), registered nurse,
17 medical technologist, physician assistant or person acting under the direction of a
18 physician who obtains a biological specimen under s. 165.76, 938.34 (15), 973.047 or
19 980.063 is immune from any civil or criminal liability for the act, except for civil
20 liability for negligence in the performance of the act.

21 **SECTION 46.** 185.983 (1) of the statutes is renumbered 185.983 (1r).

22 **SECTION 47.** 185.983 (1g) of the statutes is created to read:

23 185.983 (1g) "Physician" has the meaning given in s. 448.01 (5).

24 **SECTION 48.** 250.01 (6) of the statutes is repealed.

25 **SECTION 49.** 252.01 (5) of the statutes is created to read:

1 252.01 (5) "Physician" has the meaning given in s. 448.01 (5).

2 **SECTION 50.** 252.14 (1) (ar) 4. of the statutes is amended to read:

3 252.14 (1) (ar) 4. A physician licensed under subch. II of ch. 448.

4 **SECTION 51.** 252.15 (1) (am) of the statutes is amended to read:

5 252.15 (1) (am) "Health care professional" means a physician who is licensed
6 under ch. 448 or a registered nurse or licensed practical nurse who is licensed under
7 ch. 441.

8 **SECTION 52.** 252.23 (1) (a) of the statutes is amended to read:

9 252.23 (1) (a) "Tattoo" has the meaning given in s. 948.70 (1) (b).

10 **SECTION 53.** 253.01 of the statutes is renumbered 253.01 (intro.) and amended
11 to read:

12 **253.01 (intro.) Definition Definitions.** In this chapter, ~~"division":~~

13 (1) "Division" means the division within the department that has primary
14 responsibility for health issues.

15 **SECTION 54.** 253.01 (2) of the statutes is created to read:

16 253.01 (2) "Physician" has the meaning given in s. 448.01 (5).

17 **SECTION 55.** 255.01 (2m) of the statutes is created to read:

18 255.01 (2m) "Physician" has the meaning given in s. 448.01 (5).

19 **SECTION 56.** 301.45 (1d) (q) of the statutes is created to read:

20 301.45 (1d) (q) "Physician" has the meaning given in s. 448.01 (5).

21 **SECTION 57.** 302.10 of the statutes is amended to read:

22 **302.10 Solitary confinement.** For violation of the rules of the prison an
23 inmate may be confined to a solitary cell, under the care and advice of the physician,
24 as defined in s. 448.01 (5).

25 **SECTION 58.** 302.113 (9g) (c) of the statutes is amended to read:

1 302.113 (9g) (c) An inmate who meets the criteria under par. (b) may submit
2 a petition to the program review committee at the correctional institution in which
3 the inmate is confined requesting a modification of the inmate's bifurcated sentence
4 in the manner specified in par. (f). If the inmate alleges in the petition that he or she
5 has a terminal condition, the inmate shall attach to the petition affidavits from 2
6 physicians, as defined in s. 448.01 (5), setting forth a diagnosis that the inmate has
7 a terminal condition.

8 **SECTION 59.** 302.37 (2) of the statutes is amended to read:

9 302.37 (2) Neither the sheriff or other keeper of any jail nor any other person
10 shall give, sell or deliver to any prisoner for any cause whatever any alcohol
11 beverages unless a physician, as defined in s. 448.01 (5), certifies in writing that the
12 health of the prisoner requires it, in which case the prisoner may be allowed the
13 quantity prescribed.

14 **SECTION 60.** 302.383 (1) (b) of the statutes is amended to read:

15 302.383 (1) (b) Ensure that the prisoner has been fully informed about his or
16 her treatment needs, the mental health services available to him or her and his or
17 her rights under ch. 51, and ensure that the prisoner has had an opportunity to
18 discuss his or her needs, the services available to him or her and his or her rights with
19 a ~~licensed~~ physician, as defined in s. 448.01 (5), licensed psychologist, or other mental
20 health professional.

21 **SECTION 61.** 302.40 of the statutes is amended to read:

22 **302.40 Discipline; solitary confinement.** For violating the rules of the jail,
23 an inmate may be kept in solitary confinement, under the care and advice of a
24 physician, as defined in s. 448.01 (5), but not over 10 days.

25 **SECTION 62.** 343.045 of the statutes is created to read:

1 **343.045 Definition.** In this subchapter, “physician” has the meaning given
2 in s. 448.01 (5).

3 **SECTION 63.** 343.63 (4) of the statutes is amended to read:

4 343.63 (4) The applicant shall submit with his or her application a statement
5 completed by a ~~registered~~ physician showing that in the physician’s judgment the
6 applicant is physically fit to teach driving.

7 **SECTION 64.** 346.01 (3) of the statutes is created to read:

8 346.01 (3) In this chapter, “physician” has the meaning given in s. 448.01 (5).

9 **SECTION 65.** 347.485 (2) (b) of the statutes is amended to read:

10 347.485 (2) (b) Except for photosensitive corrective glasses prescribed by an
11 ophthalmologist, physician, as defined in s. 448.01 (5), oculist or optometrist, eye
12 protection worn during hours of darkness may not be tinted or darkened.

13 **SECTION 66.** 350.155 (2) of the statutes is amended to read:

14 350.155 (2) In cases of death involving a snowmobile in which the decedent died
15 within 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be
16 withdrawn from the body of the decedent within 12 hours after death, by the coroner
17 or medical examiner or by a physician, as defined in s. 448.01 (5), so designated by
18 the coroner or medical examiner or by a qualified person at the direction of such
19 physician. All funeral directors shall obtain a release from the coroner or medical
20 examiner prior to proceeding with embalming any body coming under the scope of
21 this section. The blood so drawn shall be forwarded to a laboratory approved by the
22 department of health and family services for analysis of the alcoholic content of such
23 blood specimen. The coroner or medical examiner causing the blood to be withdrawn
24 shall be notified of the results of each analysis made and shall forward the results
25 of each such analysis to the department of health and family services. The

1 department of health and family services shall keep a record of all such examinations
2 to be used for statistical purposes only. The cumulative results of the examinations,
3 without identifying the individuals involved, shall be disseminated and made public
4 by the department of health and family services. The department shall reimburse
5 coroners and medical examiners for the costs incurred in submitting reports and
6 taking blood specimens and laboratories for the costs incurred in analyzing blood
7 specimens under this section.

8 **SECTION 67.** 441.001 (2q) of the statutes is created to read:

9 441.001 (2q) PHYSICIAN. "Physician" has the meaning given in s. 448.01 (5).

10 **SECTION 68.** 441.001 (3) (a) of the statutes is amended to read:

11 441.001 (3) (a) "Practical nursing" means the performance for compensation
12 of any simple acts in the care of convalescent, subacutely or chronically ill, injured
13 or infirm persons, or of any act or procedure in the care of the more acutely ill, injured
14 or infirm under the specific direction of a nurse, physician, chiropractor licensed
15 under ch. 446, podiatrist licensed under ch. 448, dentist licensed under ch. 447 or
16 optometrist licensed under ch. 449, or under an order of a person who is licensed to
17 practice medicine, podiatry, dentistry or optometry in another state if that person
18 prepared the order after examining the patient in that other state and directs that
19 the order be carried out in this state.

20 **SECTION 69.** 441.001 (4) (b) of the statutes is amended to read:

21 441.001 (4) (b) The execution of procedures and techniques in the treatment
22 of the sick under the general or special supervision or direction of a physician,
23 chiropractor licensed under ch. 446, podiatrist licensed under ch. 448, dentist
24 licensed under ch. 447 or optometrist licensed under ch. 449, or under an order of a
25 person who is licensed to practice medicine, podiatry, dentistry or optometry in

1 another state if the person making the order prepared the order after examining the
2 patient in that other state and directs that the order be carried out in this state.

3 SECTION 70. 444.10 of the statutes is amended to read:

4 444.10 Physician to examine contestants. Prior to entering the ring, each
5 contestant must be examined by a physician, as defined in s. 448.01 (5), who has been
6 licensed to practice in Wisconsin not less than 5 years and who is appointed by the
7 department and certifies in writing, over his or her signature, as to the contestant's
8 physical and mental fitness to engage in such contest.

9 SECTION 71. 445.14 of the statutes is amended to read:

10 445.14 Funeral directors; who to employ. No public officer, employee or
11 officer of any public institution, physician or surgeon, as defined in s. 448.01 (5), shall
12 send, or cause to be sent, to any funeral director, the corpse of any deceased person,
13 without having first made due inquiry as to the desires of the next of kin, or any
14 persons who may be chargeable with the funeral expenses of such deceased person,
15 and if any such kin or person is found, his or her authority or direction shall be
16 received as to the disposal of such corpse.

17 SECTION 72. 446.01 (1) of the statutes is created to read:

18 446.01 (1) "Physician assistant" means a physician assistant licensed under
19 subch. II of ch. 448.

20 SECTION 73. 446.01 (2) (b) of the statutes is amended to read:

21 446.01 (2) (b) To employ or apply chiropractic adjustments, and the principles
22 or techniques of chiropractic science, that are taught at a chiropractic college or
23 university approved by the Council on Chiropractic Education or any successor
24 organization, in the diagnosis, treatment or prevention of any of the conditions
25 described in s. 448.01 (10).

INSERT
22-10

INSERT 22-19
25

1 **SECTION 74.** 446.02 (1) (b) of the statutes is amended to read:

2 446.02 (1) (b) Meets the requirements of continuing education for license
3 renewal ~~as the examining board may require~~ under s. 446.025. During the time
4 between initial licensure and commencement of a full 2-year licensure period new
5 licensees shall not be required to meet continuing education requirements. Any
6 person who has not engaged in the practice of chiropractic for 2 years or more, while
7 holding a valid license under this chapter, and desiring to engage in such practice,
8 shall be required by the examining board to complete a continuing education course
9 at a school of chiropractic approved by the examining board or pass a practical
10 examination administered by the examining board or both.

11 **SECTION 75.** 446.02 (2) (b) of the statutes is amended to read:

12 446.02 (2) (b) The examining board shall promulgate rules establishing
13 educational requirements for obtaining a license under par. (a). The rules shall
14 require that an application for the license that is received by the department after
15 June 30, 1998, be accompanied by satisfactory evidence that the applicant has a
16 bachelor's degree from a college or university accredited by an accrediting body listed
17 as nationally recognized by the secretary of the federal department of education, and
18 has graduated from a college or university of chiropractic approved by the examining
19 board.

20 **SECTION 76.** 446.02 (4) of the statutes is amended to read:

21 446.02 (4) The renewal date and renewal fee for all licenses granted by the
22 examining board are specified under s. 440.08 (2) (a). In an application for renewal,
23 the applicant shall identify each employee, other than a nurse licensed under ch. 441,
24 physician assistant, physical therapist licensed under subch. III of ch. 448, or
25 athletic trainer licensed under subch. VI of ch. 448, to whom clinical work is

1 delegated. If the examining board has promulgated rules requiring such an
2 employee to complete a training program or course of instruction to perform the
3 delegated work, the applicant shall also provide the name, date, and sponsoring
4 organization for the training program or course of instruction that the employee
5 completed. Except as provided in sub. (1) (b), the examining board may not renew
6 a license unless the applicant for renewal identifies on a form provided by the
7 department the continuing education courses approved under s. 446.025 (2) that the
8 applicant has completed to satisfy the minimum number of hours required under s.
9 446.025 (1).

10 **SECTION 77.** 446.02 (6m) of the statutes is created to read:

11 446.02 (6m) (a) Except as provided in par. (b), a chiropractor who is granted
12 a license under this chapter on or before January 1, 2003, may provide counsel,
13 guidance, direction, advice, or recommendations to a patient regarding the health
14 benefits of vitamins, herbs, or nutritional supplements only if the chiropractor has
15 completed 48 hours in a postgraduate course of study in nutrition that is approved
16 by the examining board.

17 (b) Paragraph (a) does not apply to a chiropractor licensed under this chapter
18 who is certified as a dietitian under subch. V of ch. 448.

19 **SECTION 78.** 446.02 (7) (b) of the statutes is renumbered 446.02 (7) (b) 1. and
20 amended to read:

21 446.02 (7) (b) 1. ~~A~~ Except as provided in subd. 2., a chiropractor may not
22 delegate to a person who is not licensed under this chapter the making of a diagnosis,
23 the performance of a chiropractic adjustment, the analysis of a diagnostic test or
24 clinical information or any practice or service that the examining board, by rule,

1 prohibits a chiropractor from delegating to a person who is not licensed under this
2 chapter.

3 **SECTION 79.** 446.02 (7) (b) 2. of the statutes is created to read:

4 446.02 (7) (b) 2. A chiropractor may delegate to a physician assistant the
5 making of a diagnosis, the analysis of a diagnostic test or clinical information, or any
6 practice or service specified by the examining board by rule, except that a
7 chiropractor may not delegate to a physician assistant the performance of a
8 chiropractic adjustment and except that a chiropractor may not delegate to a
9 physician assistant any practice or service that exceeds the scope of practice of the
10 chiropractor or that exceeds the education, training, or experience of the physician
11 assistant.

12 **SECTION 80.** 446.02 (7s) of the statutes is created to read:

13 446.02 (7s) (a) A chiropractor shall evaluate each patient to determine whether
14 the patient has a condition that is treatable by chiropractic means. An evaluation
15 shall be based on an examination that is appropriate to the patient. In conducting
16 an evaluation, a chiropractor shall utilize chiropractic science, as defined by rule by
17 the examining board, and the principles of education and training of the chiropractic
18 profession. A chiropractor shall discontinue treatment by chiropractic means if, at
19 any time, the chiropractor determines, or reasonably should have determined, that
20 the patient's condition will not respond to further treatment by chiropractic means,
21 except that a chiropractor may provide supportive care to a patient being treated by
22 another health care professional.

23 (b) If a chiropractor determines, or reasonably should have determined, at any
24 time, that a patient has a condition that is not treatable by chiropractic means, or
25 will not respond to further treatment by chiropractic means, the chiropractor shall

1 inform the patient and refer the patient to a physician licensed under subch. II of ch.
2 448. In making a referral under this paragraph, a chiropractor shall do one of the
3 following:

4 1. Make a written referral to the physician that describes the chiropractor's
5 findings, provide a copy of the written referral to the patient, and maintain a copy
6 of the written referral in the patient record under sub. (7m) (a).

7 2. Make an oral referral to the physician or the physician's staff that describes
8 the chiropractor's findings, notify the patient about the referral, make a written
9 record of the referral, including the name of the physician or staff member and date
10 of the referral, and maintain the written record in the patient record under sub. (7m)
11 (a).

12 **SECTION 81.** 446.02 (9) (a) of the statutes is amended to read:

13 446.02 (9) (a) A student or graduate of a college or university of chiropractic
14 who practices chiropractic, in a program for the clinical training of students and
15 graduates that is reviewed and approved by the examining board, under the
16 supervision of a chiropractor who is approved by the examining board to supervise
17 the clinical training of the student or graduate and who is licensed under this chapter
18 and is responsible for the student's or graduate's practice in an infirmary, clinic,
19 hospital or private chiropractic office that is connected or associated for training
20 purposes with a college or university of chiropractic approved by the examining
21 board.

22 **SECTION 82.** 446.025 of the statutes is created to read:

23 **446.025 Continuing education.** (1) The examining board shall specify the
24 minimum number of hours of continuing education courses that, except as provided
25 in s. 446.02 (1) (b), an applicant for renewal of a license under this chapter is required

1 to complete during a 2-year licensure period. Only courses approved by the
2 examining board under sub. (2) may be used to satisfy the hours required. The
3 examining board shall periodically publish updated lists of the courses that are
4 approved under sub. (2).

5 (2) (a) The examining board may not approve a continuing education course
6 unless the organization that sponsors the course satisfies all of the following:

7 1. The organization is the Wisconsin, American, or International Chiropractic
8 Association or its successor, a college or university of chiropractic approved by the
9 examining board, or a college or university of medicine or osteopathy accredited by
10 an accrediting body listed as nationally recognized by the secretary of the federal
11 department of education.

12 2. The organization selects the instructor for the course. If the instructor is a
13 member of the undergraduate or postgraduate faculty of a college or university of
14 chiropractic, the organization shall provide a written statement to the examining
15 board verifying that the instructor has been appointed by the college or university
16 in accordance with the accreditation standards of the Council on Chiropractic
17 Education or its successor.

18 3. The organization establishes the objectives of the course, prepares course
19 materials, evaluates the subject matter prepared by the instructor, conducts a
20 post-course evaluation, maintains course transcripts, and performs financial
21 administration necessary for the course.

22 4. The organization proctors course attendance through the instructor or an
23 officer, director, or employee of the organization.

24 5. The organization provides attendance vouchers to course attendees.

1 6. The organization supplies a list of course attendees to the examining board
2 in a manner prescribed by the examining board.

3 (b) Notwithstanding par. (a), the examining board may approve a continuing
4 education course sponsored by an organization that does not satisfy a requirement
5 under par. (a) 2. to 5. if the organization delegates satisfaction of the requirement to
6 another organization and the other organization satisfies the requirement.

7 (3) If an organization that sponsors a course approved under sub. (2) fails to
8 satisfy any requirement under sub. (2) (a) 2. to 5., the examining board shall, for a
9 period of 2 years, withdraw or withhold approval of all continuing education courses
10 sponsored by the organization. If an organization to whom satisfaction of any
11 requirement under sub. (2) (a) 2. to 5. is delegated under sub. (2) (b) fails to satisfy
12 the requirement, the examining board shall, for a period of 2 years, withdraw or
13 withhold approval of all continuing education courses sponsored by the organization
14 that made the delegation.

15 (4) During each 2-year licensure period, the department shall audit at least
16 25% of the applications for renewal of a license under this chapter to verify that an
17 applicant has completed the continuing education courses identified by the applicant
18 under s. 446.02 (4).

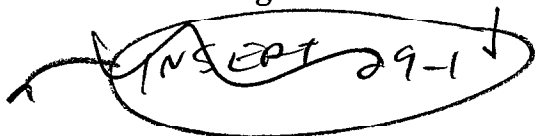
19 SECTION 83. 446.03 (8) of the statutes is created to read:

20 446.03 (8) Has violated this chapter or any rule promulgated under this
21 chapter.

22 SECTION 84. 447.03 (3) (h) of the statutes is amended to read:

23 447.03 (3) (h) A physician ~~or surgeon licensed in this state, as defined in s.~~
24 448.01 (5), who extracts teeth, or operates upon the palate or maxillary bones and
25 investing tissues, or who administers anesthetics, either general or local.

INSERT 28-181



1 **SECTION 85.** 449.01 (2) of the statutes is amended to read:

2 449.01 (2) DISPENSING OPTICIANS. A dispensing optician is one who practices
3 optical dispensing. The practice of optical dispensing comprises the taking of
4 necessary facial measurements and the processing, fitting and adjusting of
5 mountings, frames, lenses and kindred products in the filling of prescriptions of duly
6 licensed physicians or optometrists for ophthalmic lenses. Duplications,
7 replacements or reproductions not requiring optometric service may be done without
8 prescription. Nothing herein contained shall change the responsibility of physician
9 to patient, or optometrist to patient.

10 **SECTION 86.** 449.01 (5) of the statutes is created to read:

11 449.01 (5) PHYSICIAN. In this chapter, “physician” has the meaning given in s.
12 448.01 (5).

13 **SECTION 87.** 449.02 (2) of the statutes is amended to read:

14 449.02 (2) This section shall not apply to physicians and surgeons duly licensed
15 as such in Wisconsin nor shall this section apply to the sale of spectacles containing
16 simple lenses of a plus power only at an established place of business incidental to
17 other business conducted therein, without advertising other than price marking on
18 the spectacles, if no attempt is made to test the eyes. The term “simple lens” shall
19 not include bifocals.

20 **SECTION 88.** 450.01 (15m) of the statutes is created to read:

21 450.01 (15m) “Physician” has the meaning given in s. 448.01 (5).

22 **SECTION 89.** 450.01 (22) of the statutes is amended to read:

23 450.01 (22) “Vaccination protocol” means a written protocol agreed to by a
24 physician, as defined in s. 448.01 (5), and a pharmacist that establishes procedures

1 and record-keeping and reporting requirements for the administration of a vaccine
2 by a pharmacist for a period specified in the protocol that may not exceed 2 years.

3 **SECTION 90.** 454.01 (14m) of the statutes is created to read:

4 454.01 (14m) “Physician” has the meaning given in s. 448.01 (5).

5 **SECTION 91.** 454.02 (1) of the statutes is amended to read:

6 454.02 (1) Licenses to practice barbering or cosmetology do not confer the right
7 to diagnose, prescribe for or treat diseases or conditions except as indicated in the
8 definition of barbering or cosmetology in s. 454.01 (5) or under the direction of a
9 licensed and practicing physician.

10 **SECTION 92.** 459.035 of the statutes is amended to read:

11 **459.035 Medical exam before being fitted.** A hearing aid shall not be fitted
12 for or sold to a child 16 years of age or younger unless within 90 days prior to the
13 fitting the person to be fitted has been examined by a physician, as defined in s.
14 448.01 (5), to determine whether or not he or she has any physical deficiencies that
15 would prohibit the effective use of a hearing aid.

16 **SECTION 93.** 632.68 (1) (am) of the statutes is created to read:

17 632.68 (1) (am) In this subsection, “physician” has the meaning given in s.
18 448.01 (5).

19 **SECTION 94.** 632.835 (1) (cm) of the statutes is created to read:

20 632.835 (1) (cm) In this subsection, “physician” has the meaning given in s.
21 448.01 (5).

22 **SECTION 95.** 632.853 of the statutes is amended to read:

23 **632.853 Coverage of drugs and devices.** A health care plan, as defined in
24 s. 628.36 (2) (a) 1., or a self-insured health plan, as defined in s. 632.85 (1) (c), that
25 provides coverage of only certain specified prescription drugs or devices shall develop

1 a process through which a physician, as defined in s. 448.01 (5), may present medical
2 evidence to obtain an individual patient exception for coverage of a prescription drug
3 or device not routinely covered by the plan. The process shall include timelines for
4 both urgent and nonurgent review.

5 **SECTION 96.** 632.89 (1) (eg) of the statutes is created to read:

6 632.89 (1) (eg) In this subsection, “physician” has the meaning given in s.
7 448.01 (5).

8 **SECTION 97.** 765.03 (1) of the statutes is amended to read:

9 765.03 (1) No marriage shall be contracted while either of the parties has a
10 husband or wife living, nor between persons who are nearer of kin than 2nd cousins
11 except that marriage may be contracted between first cousins where the female has
12 attained the age of 55 years or where either party, at the time of application for a
13 marriage license, submits an affidavit signed by a physician, as defined in s. 448.01
14 (5), stating that either party is permanently sterile. Relationship under this section
15 shall be computed by the rule of the civil law, whether the parties to the marriage are
16 of the half or of the whole blood. A marriage may not be contracted if either party
17 has such want of understanding as renders him or her incapable of assenting to
18 marriage.

19 **SECTION 98.** 767.001 (5m) of the statutes is created to read:

20 767.001 (5m) “Physician” has the meaning given in s. 448.01 (5).

21 **SECTION 99.** 804.10 (1) of the statutes is renumbered 804.10 (1r).

22 **SECTION 100.** 804.10 (1g) of the statutes is created to read:

23 804.10 (1g) In this section, “physician” has the meaning given in s. 448.01 (5).

24 **SECTION 101.** 804.10 (3) (a) of the statutes is amended to read:

1 804.10 (3) (a) No evidence obtained by an adverse party by a court-ordered
2 examination under sub. ~~(1)~~ (1r) or inspection under sub. (2) shall be admitted upon
3 the trial by reference or otherwise unless true copies of all reports prepared pursuant
4 to such examination or inspection and received by such adverse party have been
5 delivered to the other party or attorney not later than 10 days after the reports are
6 received by the adverse party. The party claiming damages shall deliver to the
7 adverse party, in return for copies of reports based on court-ordered examination or
8 inspection, a true copy of all reports of each person who has examined or treated the
9 claimant with respect to the injuries for which damages are claimed.

10 **SECTION 102.** 880.33 (1) of the statutes is amended to read:

11 880.33 (1) Whenever it is proposed to appoint a guardian on the ground of
12 incompetency, a licensed physician, as defined in s. 448.01 (5), or licensed
13 psychologist, or both, shall furnish a written statement concerning the mental
14 condition of the proposed ward, based upon examination. The privilege under s.
15 905.04 shall not apply to this statement. A copy of the statement shall be provided
16 to the proposed ward, guardian ad litem and attorney. Prior to the examination,
17 under this subsection, of a person alleged to be not competent to refuse psychotropic
18 medication under s. 880.07 (1m), the person shall be informed that his or her
19 statements may be used as a basis for a finding of incompetency and an order for
20 protective services, including psychotropic medication. The person shall also be
21 informed that he or she has a right to remain silent and that the examiner is required
22 to report to the court even if the person remains silent. The issuance of such a
23 warning to the person prior to each examination establishes a presumption that the
24 person understands that he or she need not speak to the examiner.

25 **SECTION 103.** 880.33 (4m) (b) 1. of the statutes is amended to read:

1 880.33 (4m) (b) 1. Order the appropriate county department under s. 46.23,
2 51.42 or 51.437 to develop or furnish, to provide to the ward, and to submit to the
3 court, a treatment plan specifying the protective services, including psychotropic
4 medication as ordered by the treating physician, as defined in s. 448.01 (5), that the
5 proposed ward should receive.

6 **SECTION 104.** 891.09 (2) of the statutes is amended to read:

7 891.09 (2) CHURCH AND DOCTOR'S RECORDS. Any church, parish or baptismal
8 record, and any record of a physician, as defined in s. 448.01 (5), or a person
9 authorized to solemnize marriages, in which record are preserved the facts relating
10 to any birth, stillbirth, fetal death, marriage or death, including the names of the
11 persons, dates, places and other material facts, may be admitted as prima facie
12 evidence of any fact aforesaid. But such record must be produced by its proper
13 custodian and be supported by the custodian's oath that it is such a record as it
14 purports to be and is genuine to the best of the custodian's knowledge and belief.

15 **SECTION 105.** 891.40 (1) of the statutes is amended to read:

16 891.40 (1) If, under the supervision of a licensed physician, as defined in s.
17 448.01 (5), and with the consent of her husband, a wife is inseminated artificially
18 with semen donated by a man not her husband, the husband of the mother at the time
19 of the conception of the child shall be the natural father of a child conceived. The
20 husband's consent must be in writing and signed by him and his wife. The physician
21 shall certify their signatures and the date of the insemination, and shall file the
22 husband's consent with the department of health and family services, where it shall
23 be kept confidential and in a sealed file except as provided in s. 46.03 (7) (bm).
24 However, the physician's failure to file the consent form does not affect the legal
25 status of father and child. All papers and records pertaining to the insemination,

1 whether part of the permanent record of a court or of a file held by the supervising
2 physician or elsewhere, may be inspected only upon an order of the court for good
3 cause shown.

4 **SECTION 106.** 891.40 (2) of the statutes is amended to read:

5 891.40 (2) The donor of semen provided to a licensed physician, as defined in
6 s. 448.01 (5), for use in artificial insemination of a woman other than the donor's wife
7 is not the natural father of a child conceived, bears no liability for the support of the
8 child and has no parental rights with regard to the child.

9 **SECTION 107.** 938.02 (14g) of the statutes is created to read:

10 938.02 (14g) "Physician" has the meaning given in s. 448.01 (5).

11 **SECTION 108.** 938.48 (6) of the statutes is amended to read:

12 938.48 (6) Consent to emergency surgery under the direction of a licensed
13 physician ~~or surgeon~~ for any juvenile under its supervision under s. 938.183, 938.34
14 (4h), (4m) or (4n) or 938.357 (4) upon notification by a licensed physician ~~or surgeon~~
15 of the need for such surgery and if reasonable effort, compatible with the nature and
16 time limitation of the emergency, has been made to secure the consent of the
17 juvenile's parent or guardian.

18 **SECTION 109.** 939.615 (6) (e) of the statutes is amended to read:

19 939.615 (6) (e) A person filing a petition requesting termination of lifetime
20 supervision who is entitled to a hearing under par. (d) 2. shall be examined by a
21 person who is either a physician, as defined in s. 448.01 (5), or a psychologist licensed
22 under ch. 455 and who is approved by the court. The physician or psychologist who
23 conducts an examination under this paragraph shall prepare a report of his or her
24 examination that includes his or her opinion of whether the person petitioning for
25 termination of lifetime supervision is a danger to public. The physician or

1 psychologist shall file the report of his or her examination with the court within 60
2 days after completing the examination, and the court shall provide copies of the
3 report to the person filing the petition and the district attorney who received a copy
4 of the person's petition under par. (c). The contents of the report shall be confidential
5 until the physician or psychologist testifies at a hearing under par. (f). The person
6 petitioning for termination of lifetime supervision shall pay the cost of an
7 examination required under this paragraph.

8 **SECTION 110.** 940.001 of the statutes is created to read:

9 **940.001 Definition.** In this subchapter, "physician" has the meaning given
10 in s. 448.01 (5).

11 **SECTION 111.** 941.315 (1) (c) of the statutes is created to read:

12 941.315 (1) (c) "Physician" has the meaning given in s. 448.01 (5).

13 **SECTION 112.** 948.01 (3o) of the statutes is created to read:

14 948.01 (3o) "Physician" has the meaning given in s. 448.01 (5).

15 **SECTION 113.** 948.70 (1) (intro.) and (b) of the statutes are consolidated,
16 renumbered 948.70 (1) and amended to read:

17 948.70 (1) In this section: ~~(b) "Tattoo",~~ "tattoo" means to insert pigment under
18 the surface of the skin of a person, by pricking with a needle or otherwise, so as to
19 produce an indelible mark or figure through the skin.

20 **SECTION 114.** 948.70 (1) (a) of the statutes is repealed.

21 **SECTION 115.** 967.02 (2) of the statutes is amended to read:

22 967.02 (2) "Department" means the department of corrections, except as
23 provided in s. 975.001 (1).

24 **SECTION 116.** 968.255 (3) of the statutes is amended to read:

1 968.255 (3) No person other than a physician, as defined in s. 448.01 (5),
2 physician assistant or registered nurse licensed to practice in this state may conduct
3 a body cavity search.

4 **SECTION 117.** 971.14 (2) (g) of the statutes is amended to read:

5 971.14 (2) (g) The defendant may be examined for competency purposes at any
6 stage of the competency proceedings by physicians, as defined in s. 448.01 (5), or
7 other experts chosen by the defendant or by the district attorney, who shall be
8 permitted reasonable access to the defendant for purposes of the examination.

9 **SECTION 118.** 971.14 (5) (am) of the statutes is amended to read:

10 971.14 (5) (am) If the defendant is not subject to a court order determining the
11 defendant to be not competent to refuse medication or treatment for the defendant's
12 mental condition and if the treatment facility determines that the defendant should
13 be subject to such a court order, the treatment facility may file with the court with
14 notice to the counsel for the defendant, the defendant and the district attorney, a
15 motion for a hearing, under the standard specified in sub. (3) (dm), on whether the
16 defendant is not competent to refuse medication or treatment. A report on which the
17 motion is based shall accompany the motion and notice of motion and shall include
18 a statement signed by a licensed physician, as defined in s. 448.01 (5), that asserts
19 that the defendant needs medication or treatment and that the defendant is not
20 competent to refuse medication or treatment, based on an examination of the
21 defendant by such a licensed physician. Within 10 days after a motion is filed under
22 this paragraph, the court shall, under the procedures and standards specified in sub.
23 (4) (b), determine the defendant's competency to refuse medication or treatment for
24 the defendant's mental condition. At the request of the defendant, the defendant's
25 counsel or the district attorney, the hearing may be postponed, but in no case may

1 the postponed hearing be held more than 20 days after a motion is filed under this
2 paragraph.

3 **SECTION 119.** 975.001 of the statutes is renumbered 975.001 (intro.) and
4 amended to read:

5 **975.001 ~~Definition~~ Definitions.** (intro.) In this chapter, ~~“department”~~:

6 (1) “Department” means the department of health and family services.

7 **SECTION 120.** 975.001 (2) of the statutes is created to read:

8 975.001 (2) “Physician” has the meaning given in s. 448.01 (5).

9 **SECTION 121.** 979.001 of the statutes is created to read:

10 **979.001 Definition.** In this section “physician” has the meaning given in s.
11 448.01 (5).

12 **SECTION 122.** 990.01 (25v) of the statutes is created to read:

13 990.01 (25v) OSTEOPATH. “Osteopath” means a person holding a license or
14 certificate of registration from the medical examining board.

15 **SECTION 123.** 990.01 (28) of the statutes is amended to read:

16 990.01 (28) ~~PHYSICIAN, SURGEON OR OSTEOPATH.~~ “Physician,” ~~“surgeon” or~~
17 “osteopath” or “licensed physician” means a person holding a license or certificate of
18 registration from the medical examining board or chiropractic examining board.

19 **SECTION 124.** 990.01 (40m) of the statutes is created to read:

20 990.01 (40m) SURGEON. “Surgeon” means a person holding a license or
21 certificate of registration from the medical examining board.

22 **SECTION 125. Initial applicability.**

23 (1) CONTINUING EDUCATION. If the effective date of this subsection is before
24 January 1, 2004, the treatment of sections 446.02 (1) (b) and (4) and 446.025 of the
25 statutes first applies to chiropractors whose licenses expire on January 1, 2005. If

1 the effective date of this subsection is on or after January 1, 2004, the treatment of
2 sections 446.02 (1) (b) and (4) and 446.025 of the statutes first applies to
3 chiropractors whose licenses expire on January 1, 2007.

4 (2) DISCIPLINARY ACTIONS. The treatment of section 446.03 (8) of the statutes
5 first applies to violations occurring on the effective date of this subsection.

6 **SECTION 126. Effective dates.** This act takes effect on the first day of the 2nd
7 month beginning after publication, except as follows:

8 (1) The treatment of section 446.02 (6m) of the statutes takes effect on the first
9 day of the 7th month beginning after publication.

10 (END)

INSERT 38-6 !

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2381/lins
MDK:.....

INSERT 38-6:

NONSTATS 2

and the creation of sections

(8) VIOLATIONS AND OFFENSES. The treatment of sections 446.03 (intro.) and (8) and 446.04 (6), (7), (8), (9), (10), and (11) and 446.05 (1) of the statutes first apply to violations that occur, and offenses that are committed, on the effective date of this subsection.

NONSTATS 3

(1) LICENSE SUSPENSION. The treatment of section 446.05 (2) and (3) of the statutes first apply to third violations that occur on the effective date of this subsection.

and the creation of section 446.05 (3) of the statutes

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to amend* 446.03 (intro.), 446.05 (1) and 446.05 (2); and *to create* 446.01
2 (1d), 446.01 (1k), 446.01 (1L), 446.01 (1m), 446.01 (3), 446.035, 446.04 (6), (7),
3 (8), (9), (10) and (11) and 446.05 (3) of the statutes; **relating to:** unprofessional
4 conduct by chiropractors.

~~*Analysis by the Legislative Reference Bureau*~~

Under current law, the Chiropractic Examining Board licenses and regulates chiropractors in this state. The Chiropractic Examining Board may investigate allegations of misconduct against a chiropractor and, following a hearing, may revoke, limit, or suspend the chiropractor's license.

Under this bill, the Chiropractic Examining Board must establish a Peer Review Panel of qualified chiropractors to evaluate a claim that a chiropractor provided inappropriate care to a patient. Under the bill, a finding by the Peer Review Panel that the chiropractor has provided a certain number of inappropriate services to a patient constitutes misconduct for which his or her license may be suspended or revoked.

The bill also creates several new categories of misconduct for which a chiropractor may have his or her license suspended, including improper billing and falsifying an insurance claim. In addition, under the bill, the Chiropractic Examining Board must suspend the license of a chiropractor who commits a third misconduct violation, for no less than six months.

Finally, the bill prohibits sexual misconduct by chiropractors. Sexual misconduct is sexual contact, exposure, or gratification, sexually offensive

Sub-sub Unprofessional conduct

BF 1/3 ital

INSERT
3A:

INSERT 3A: Cont'd.

communication, dating a patient under the chiropractor's professional care or treatment, or other sexual behavior with or in the presence of a patient under the chiropractor's professional care or treatment. A chiropractor who commits sexual misconduct that does not involve physical contact with a patient shall have his or her license suspended for not less than 90 days. A chiropractor who commits a second act of sexual misconduct that does not involve physical contact or a first act of sexual misconduct that does involve physical contact shall have his or her license suspended for one year, and a chiropractor who commits a third act of sexual misconduct that does not involve physical contact or a second act of sexual misconduct that does involve physical contact shall have his or her license revoked. END of INSERT 3A

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INSERT 22-16.

1 SECTION ~~1.~~[#] 446.01 (1d) of the statutes is created to read:

2 446.01 (1d) "Generally accepted standards" means a level of diagnosis, care,
3 skill, and treatment that is recognized by a reasonably prudent chiropractor as being
4 appropriate under similar conditions and circumstances.

5 SECTION ~~2.~~[#] 446.01 (1k) of the statutes is created to read:

6 446.01 (1k) "Patient" means an individual who receives treatment or services
7 from a chiropractor or who has received treatment or services under the supervision,
8 direction, or delegation of a chiropractor.

9 SECTION ~~3.~~[#] 446.01 (1L) of the statutes is created to read:

10 446.01 (1L) "Pattern of conduct" means more than one occurrence.

11 SECTION ~~4.~~[#] 446.01 (1m) of the statutes is created to read:

12 446.01 (1m) "Peer review" means an evaluation based on generally accepted
13 standards, by a peer review panel appointed under s. 446.035 (1), of the
14 appropriateness, quality, and utilization of chiropractic health care provided to a
15 patient or the conduct of a chiropractor alleged to have violated s. 446.04 (11).

16 SECTION ~~5.~~[#] 446.01 (3) of the statutes is created to read:

END of INSERT*22-16**INSERT 22-16 25*

INSERT 22-19 (cont'd)

1 446.01 (3) "Utilization" means the treatment or services provided to a patient,
2 including the frequency and duration of the treatment or services. END of INSERT 22-19

3
4
5 SECTION 4. 446.03 (intro.) of the statutes is amended to read:

6 **446.03 Reprimand; license revocation, limitation or suspension.**

7 (intro.) The Subject to s. 446.04 (11) (d), the examining board, by order, may
8 reprimand a licensee or registrant and may deny, limit, suspend or revoke any license
9 or certificate of registration if the licensee or registrant: END of INSERT 22-18

10
11 SECTION 4. 446.035 of the statutes is created to read:

12 **446.035 Peer review. (1) APPOINTMENT OF PEER REVIEW PANEL.** (a) The
13 examining board shall appoint a peer review panel of no fewer than 6 nor more than
14 12 members, pursuant to par. (b).

15 (b) A peer review panel may be selected from a list of nominees that is
16 submitted every 24 months by the Wisconsin Chiropractic Association. If the
17 Wisconsin Chiropractic Association fails to submit a list of nominees, the examining
18 board may solicit nominations for the peer review panel pursuant to a process
19 developed by the department.

20 (c) A nominee under par. (b) shall meet all of the following requirements:

- 21 1. Possess a valid license to practice chiropractic in this state.
- 22 2. Have no less than 10 years in practice for a minimum of 20 hours per week
23 within the preceding 2 years of his or her nomination for the peer review panel or,
if the nominee is not in active practice at the time of his or her nomination due to a
disability, have at least 5 years of practice for a minimum of 20 hours per week prior
to the onset of his or her disability.

INSEAT 29-1 (cont'd)

1 3. Be diploma eligible in a specialty that requires at least 300 hours of
2 postgraduate credit hours approved by the American Chiropractic Association or the
3 International Chiropractors Association.

4 4. Not have been subject to disciplinary action under this chapter or by any
5 regulatory or government agency.

6 5. Have completed an annual utilization review course approved by the
7 examining board.

8 6. The examining board may summarily remove a chiropractor from the peer
9 review panel if the board finds that the reviewer is unqualified or if it finds that the
10 reviewer's methods or practices are unprofessional.

11 (2) PROCEDURE. (a) A patient, a chiropractor, an insurer, or the examining
12 board may request a peer review, if the cost of the care in dispute for a course of
13 treatment exceeds \$500, by submitting a written request to the department and any
14 fee required under par. (b). Within 5 business days of submitting the request, the
15 patient, chiropractor, insurer, or examining board shall submit the following
16 documents to the department:

17 1. A written statement of the matter he or she wishes to be reviewed.

18 2. Clinical documentation relating to the course of treatment or the conduct he
19 or she wishes to be reviewed.

20 3. Any other information the patient, chiropractor, insurer, or examining board
21 wishes to include to support his or her request for review.

22 (b) The department shall charge a chiropractor or an insurer a requesting fee
23 of \$250. The department shall adjust the fee each year to reflect adjustments to the
24 U.S. consumer price index for all consumers, U.S. city average, as determined by the
25 U.S. department of labor.

INSCPT 09-1 (cont'd)

(c) Upon receipt of the documents and fee specified under par. (a), the department shall notify each patient, chiropractor, or insurer named in the request for review. Within 10 business days of receiving notification that a review has been requested, the patient, chiropractor, or insurer shall submit the following to the department:

1. A written statement of response to the matter that is being reviewed.
2. Clinical documentation relating to the course of treatment or conduct that is being reviewed.
3. Any other information the patient, chiropractor, or insurer wishes to include to support his or her response.

(d) No patient, chiropractor, or insurer may appear before the peer review panel or a peer reviewer.

(e) The department shall remove identifying information regarding a chiropractor named in the request for review and, within 5 business days of receipt, shall forward all of the documents received under pars. (a) and (c) and payment of \$235 to a peer reviewer chosen at random from the peer review panel. The department shall adjust the fee each year to reflect adjustments to the U.S. consumer price index for all consumers, U.S. city average, as determined by the U.S. department of labor. A peer reviewer chosen under this paragraph or par. (h) may not have a material professional, familial, or financial interest during the 12 months preceding his or her performance as a peer reviewer relating to a patient, chiropractor, insurer, or any agent or affiliate of a patient, chiropractor, or insurer named or involved in the peer review request.

(f) Within 30 business days of receiving the documents specified in par. (e), the peer reviewer shall make a determination of the quality, appropriateness, and

INSERT 29-1 (cont'd)

1 utilization of the chiropractic services rendered to the patient. The peer reviewer
2 shall determine that the chiropractor acted unprofessionally if he or she finds that,
3 applying generally accepted standards, 50% or more of the chiropractic services
4 identified in the request for peer review were inappropriate, unnecessary, or of
5 substandard quality. The peer reviewer shall remit his or her findings to the
6 department and the department shall issue a copy of the findings to each patient,
7 chiropractor, or insurer named in the request and to the examining board.

8 (g) Upon receipt of the peer reviewer's findings, a patient, chiropractor, insurer,
9 or the examining board may request an appeal. The person requesting the appeal
10 shall submit a written request to the department and pay a fee of \$750.

11 (h) Upon receipt of a request for appeal and the fee specified in par. (g), the
12 department shall forward all of the documents received under pars. (a), (c), and (f)
13 and a payment of \$235 each to 3 additional peer reviewers chosen at random from
14 the peer review panel. The department shall adjust the fee each year to reflect
15 adjustments to the U.S. consumer price index for all consumers, U.S. city average,
16 as determined by the U.S. department of labor. The reviewers shall conduct a joint
17 review of the submitted materials. Each peer reviewer shall determine that the
18 chiropractor acted unprofessionally if he or she finds that, applying generally
19 accepted standards, 50% or more of the chiropractic services identified in the request
20 for peer review were inappropriate, unnecessary, or of substandard quality. Each
21 peer reviewer shall sign, with his or her name and address, and remit his or her
22 findings to the department. The department shall forward a copy of the joint review
23 to each patient, chiropractor, or insurer named in the request for peer review. The
24 department shall adopt the determination reached by a majority of the peer
25 reviewers appointed under this paragraph of the of the quality, appropriateness, and

1 USEAT 29-1 (Cont'd)

1 utilization of the chiropractic services rendered to the patient or the conduct of the
2 chiropractor.

3 (3) CIVIL LIABILITY. A member of a peer review panel is immune from civil
4 liability for a finding, evaluation, recommendation, or other action he or she makes
5 or takes while performing a peer review under this section. This paragraph does not
6 apply if the member of the peer review panel acts in fraud, conspiracy, or malice.

7 (4) INSURANCE COVERAGE. No finding, evaluation, or recommendation reached
8 by a peer reviewer may be used to determine whether insurance coverage or
9 reimbursement is appropriate.

10 SECTION 8. 446.04 (6), (7), (8), (9), (10) and (11) of the statutes are created to
11 read:

12 446.04 (6) A determination under s. 446.035 that 50% or more of the
13 chiropractic services identified in a request for peer review were inappropriate,
14 unnecessary, or of substandard quality.

15 (7) Billing for a service that was not performed. This includes:

16 (a) Billing for a service that was performed by a staff person without the
17 training required by the laws of this state.

18 (b) A pattern of conduct in which a chiropractor bills a Current Procedural
19 Terminology Code in a manner inconsistent with the published standards of the
20 Current Procedural Terminology Code, the Current Procedural Terminology
21 Assistant, the Wisconsin Chiropractic Association, the American Chiropractic
22 Association, or the International Chiropractic Association.

23 (c) A pattern of conduct in which a chiropractor bills for a service using a higher
24 level Current Procedural Terminology Code than the service that was actually
25 provided to the patient with the intent of obtaining unearned reimbursement.

INSEAT 89-1 (cont'd)

1 (8) Failure to collect a deductible or co-payment required by a patient's insurer.

2 This subsection does not apply if the patient has financial hardship and the
3 chiropractor documents the financial hardship.

4 (9) Falsifying a claim.

5 (10) A pattern of conduct that involves billing for a unit of service that was not
6 actually performed with the intent of obtaining unearned reimbursement.

7 (11) Sexual misconduct. (a) Under this subsection, a chiropractor engages in
8 sexual misconduct if he or she engages in sexual contact, exposure, or gratification,
9 sexually offensive communication, dating a patient under the chiropractor's
10 professional care or treatment, or other sexual behavior with or in the presence of a
11 patient under the chiropractor's professional care or treatment and a reasonably
12 prudent chiropractor under similar conditions and circumstances would find the
13 conduct unprofessional.

14 (b) Under this subsection, "contact violation" means any violation of par. (a)
15 that involves physical contact with a patient under the chiropractor's professional
16 care or treatment.

17 (c) Under this subsection, "noncontact violation" means any violation of par. (a)
18 that does not involve physical contact with a patient under the chiropractor's
19 professional care or treatment.

20 (d) 1. The examining board shall require a chiropractor who commits a first
21 noncontact violation under this subsection to attend training developed by the
22 department regarding sexual misconduct and shall suspend his or her chiropractic
23 license for not less than 90 days.

INSERT 29-1 (cont'd)

2. The examining board shall suspend the chiropractic license of a chiropractor who commits a 2nd noncontact violation or a first contact violation under this subsection for one year.

3. The examining board shall revoke the chiropractic license of a chiropractor who commits a 3rd noncontact or a 2nd contact violation under this subsection.

SECTION 9. 446.05 (1) of the statutes is amended to read:

446.05 Procedure for hearings. (1) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings in regard to the conduct of any licensed chiropractor who, it has reason to believe, violated s. 446.02 ~~or 446.03 (1), (6), (7), (7m), or (8) or committed any offense listed in s. 446.03.~~ The person complained against may proceed to review any action of the examining board under ch. 227.

SECTION 10. 446.05 (2) of the statutes is amended to read:

446.05 (2) Upon Except as provided in sub. (3), upon application and satisfactory proof that the cause of such revocation or suspension no longer exists, the examining board may reinstate any license or registration suspended or revoked by it. This subsection does not apply to a license or registration that is suspended under s. 440.13 (2) (c) or that is revoked under s. 440.12.

SECTION 11. 446.05 (3) of the statutes is created to read:

446.05 (3) The examining board shall suspend the license of a chiropractor who commits a third violation of s. 446.04 (1) to (11) for not less than 6 months.

(END)

END of INSERT 29-1

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2381/1dn
MDK&PJH:wlj:cph

March 21, 2003

Representative Foti:

This bill incorporates the provisions of all of the following drafts: LRB-1423/P3, LRB-1424/P1, LRB-1425/P3, LRB-1426/P1, LRB-1427/P3, LRB-1428/P2, and LRB-1729/P2. Please refer to the drafter's notes for those drafts.

Note that, unlike LRB-1423/P3, this bill creates a definition for physician that applies throughout ch. 441. Therefore, there is no need to create proposed ss. 441.15 (1) (am) and 441.16 (6).

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2381/1dn
MDK&PJH:wlj:cph

March 21, 2003

Representative Foti:

This bill incorporates the provisions of all of the following drafts: LRB-1423/P3, LRB-1424/P1, LRB-1425/P3, LRB-1426/P1, LRB-1427/P3, LRB-1428/P2, and LRB-1729/P2. Please refer to the drafter's notes for those drafts.

Note that, unlike LRB-1423/P3, this bill creates a definition for physician that applies throughout ch. 441. Therefore, there is no need to create proposed ss. 441.15 (1) (am) and 441.16 (6).

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us